

## REMARKS

Claims 7-15 and 18 remain pending in the present application. The claims have not been amended in response to the above referenced patent application.

### REJECTION UNDER 35 U.S.C. § 103

Claims 7-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DeMolina, et al. in view of Lee or Dressell, Jr., et al. ('415). Applicant respectfully traverses this rejection. The Examiner agrees that DeMolina, et al. lacks showing a plurality of holes formed in a helical formation and the sleeve 78 covering all of the plurality of holes to fully close the third flow path.

The Examiner then looks to Lee or Dressell, Jr., et al. to find this feature. Lee discloses orifices 34 and in column 4, line 40 it states that the orifices 34 can be provided in a helical pattern. The piston in Lee passes over holes 34 but Lee does not have the ability to cover all of the holes. The system in Lee functions by reducing the number of open holes by bypassing the holes not by covering the holes.

The Examiner justifies his position by stating that it is notoriously well known in the art to provide dampers, as shown by DeMolina, with progressively covered holes as one well known means to further regulate the damping characteristics of a shock absorber. The problem with this statement is that Lee does not disclose, teach or suggest progressively closing holes, it teaches progressively bypassing holes, a totally different concept.

A statement that modifications to the prior art to meet the claimed invention would have been "well within the ordinary skill of the art" at the time the claimed

invention was made because the references relied upon teaching that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings Ex parte *Lovengood*, 28 USPQ 2d 1300 (Bd. Pat. App. & Inter. 1993). Here Lee does not teach a progressive closing of passages, it teaches progressively bypassing passages to reduce their number. The Examiner's jump from progressively bypassing to reduce the number to the present invention of progressively closing passages is clearly based on hindsight reasoning since it is clear that Lee does not progressively close passages.

Dressell, Jr., et al. shows a helically arranged groove or channel that are progressively closed by sleeve 76. Dressell, Jr., et al. does not disclose, teach or suggest helically arranged orifices, Figure 10 shows a spiral groove. The rotation of sleeve 76 simultaneously closes the entire groove. It does not sequentially close a plurality of grooves since it is clear from Figure 10 that there is only one groove. The Examiner's statement on page 3 where he states that Dressell, Jr., et al. shows a helically arranged grooves or channels is clearly mistaken since Figure 10 shows a single spiral groove 132.

Thus, Applicant believes Claim 7, as currently pending patentably distinguishes over the art of record. Likewise, Claims 8-11, which ultimately depend from Claim 7, are also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

Claims 12-15 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DeMolina in view of Dressell, et al. ('415) or Schupner ('122). Applicant respectfully traverses this rejection. The Examiner states that Dressell, Jr., et

al. or Schupner provide a general teaching showing helical grooves with varying depth with holes that open into them. Dressell, Jr., et al. discloses in Figure 10 a single spiral groove but Dressell, Jr., et al. does not disclose a spiral groove of varying depth. Applicant requested the Examiner to point out where this variable depth is taught in Dressell, Jr., et al. but the Examiner has ignored this request. Upon further review of Dressell, Jr., et al. in column 2, lines 65 and 66 Dressell, Jr., et al. states "The grooves are of a constant depth." Thus, it is clear that Dressell, Jr., et al. does not provide the varying depth groove as stated by the Examiner on page 4 of the Office Action.

Schupner discloses a variable depth slot but Schupner does not disclose a hole being disposed at a base of the slot. Sleeve 11 is rotated to determine the position of slots 70-73 with respect to holes 47-50, but there is no progressive covering of the groove when movement of the piston rod exceeds a specified distance. Holes 47-50 are not located in the grooves, they are on a different component. In addition, the variable depth slot shown in Figures 1-4 is a circumferential slot and it is not a helical groove. Figures 5 and 6 of Schupner disclose helical grooves 70-73 but these helical grooves are uniform in cross-sectional size throughout their length as defined in column 3, lines 35 and 36. In fact, the paragraph in column 3 beginning at line 28 teaches that instead of having a circumferential slot which varies in cross-sectional size (as in Figure 4) the amount of slot exposed to the radial opening is varied. Thus, slots 70-73 are uniform in cross-sectional size throughout their length, however, they are slightly helical. Thus, Schupner teaches circular grooves and variable depth or helical grooves and constant depth but not helical grooves with variable depth.

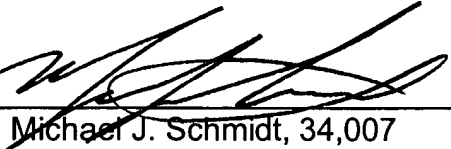
Thus, Applicant believes Claim 12, as currently pending, patentably distinguishes over the art of record. Likewise, Claims 13-15 and 18, which ultimately depend from Claim 12, are also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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